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# HOUSE BILL No. 1362

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-9-27.

**Synopsis:** County drain maintenance funding. Requires a maintenance report under the drainage law to include: (1) the estimated remaining useful life of the drain; and (2) the total estimated cost of reconstructing the drain at the end of the useful life of the drain. Provides that in preparing the schedule of assessments, a drainage board may base the amount annually assessed against each tract of land for maintenance on the total estimated cost of reconstructing the drain divided equally over the estimated remaining useful life of the drain, if the useful life of the drain is 20 years or more. Provides that if a drainage maintenance fund has a balance in excess of the amount reasonably needed for maintenance work, the drainage board may use the balance to reduce the annual maintenance assessments for the drain. Provides that a person liable for the payment of a drainage assessment may elect to pay the assessment in equal installments over a period of not more than 20 years (rather than five years).

**Effective:** July 1, 2007.

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**Bell, GiaQuinta**

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January 16, 2007, read first time and referred to Committee on Agriculture and Rural Development.

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Introduced

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1362

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 36-9-27-38 IS AMENDED TO READ AS  
2       FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 38. When the board  
3       refers a regulated drain classified in need of periodic maintenance to  
4       the county surveyor, ~~he~~ **the county surveyor** shall prepare a  
5       maintenance report that includes the following items:

6               (1) The estimated annual cost of periodically maintaining the  
7               drain.

8               (2) The name and address of each owner of land that will be  
9               affected by the proposed maintenance, and the legal description  
10              of the land of each owner, as shown by the tax duplicate or record  
11              of transfers of the county in which the land is located. However,  
12              a public way owned by a county or by the state shall be described  
13              by its name or number, and the right-of-way of a railroad may be  
14              described as the right-of-way of the owner through section,  
15              township, and range. If the name of an owner is not known, and  
16              cannot be discovered through diligent inquiry, the report may  
17              describe the land as belonging to the person who appears to be the



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owner according to the last tax duplicate or record of transfers of the county where the land is located.

(3) The nature of the maintenance work required and how frequently the work should be performed.

**(4) The estimated remaining useful life of the drain.**

**(5) The total estimated cost of reconstructing the drain at the end of the useful life of the drain.**

SECTION 2. IC 36-9-27-39 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 39. When the board receives a maintenance report under section 38 of this chapter, it shall prepare a schedule of assessments that includes the following items:

(1) A description of each tract of land determined to be benefited, and the name and address of the owner, as listed on the county surveyor's report.

(2) The percentage of the estimated cost of periodically maintaining the drain to be assessed against each tract of land. The percentage shall be based upon the benefit accruing to each tract of land from the maintenance, and must be at least one hundred percent (100%) and as near to one hundred percent (100%) as is practicable.

(3) The amount annually assessed against each tract of land for maintenance.

The board may consider the factors listed in section 112 of this chapter in preparing the schedule. **In preparing the schedule of assessments, the board may base the amount annually assessed against each tract of land for maintenance under subdivision (3) on the total estimated cost of reconstructing the drain divided equally over the estimated remaining useful life of the drain, if the useful life of the drain is twenty (20) years or more.**

SECTION 3. IC 36-9-27-45.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 45.5. (a) This section applies when a county surveyor advises the drainage board that in the county surveyor's opinion a maintenance fund has a balance in excess of the amount reasonably needed in that fund for maintenance work in the foreseeable future.

(b) The board may **do any of the following:**

**(1) Transfer an amount up to a maximum of seventy-five percent (75%) of the money in the maintenance fund to a reconstruction fund that covers the same watershed as the maintenance fund from which the money is transferred.**

**(2) Use the balance to reduce the annual assessments for periodic maintenance of the drain.**

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1 SECTION 4. IC 36-9-27-88 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 88. All final  
 3 assessments, other than annual assessments for periodic maintenance,  
 4 are due and may be paid upon the date of certification of the final  
 5 assessment to the county auditor, except that:

- 6 (1) the owners liable for the payment of the assessments may elect  
 7 to pay them in equal installments of at least fifty dollars (\$50) per  
 8 year, plus interest on the deferred payments, over a period of not  
 9 more than ~~five (5)~~ **twenty (20)** years, with the yearly payments to  
 10 be made semiannually at the time general taxes are payable; and  
 11 (2) when the board designates land as urban land in its  
 12 certification of the list of assessments, the owners liable for the  
 13 payment of assessments on the urban land may elect to pay them  
 14 in equal installments of at least one hundred dollars (\$100) per  
 15 year, plus interest on the deferred payments, over a period of not  
 16 more than twenty (20) years, with the yearly payments to be made  
 17 semiannually at the time general taxes are payable.

18 SECTION 5. [EFFECTIVE JULY 1, 2007] **IC 36-9-27-38,**  
 19 **IC 36-9-27-39, and IC 36-9-27-88, all as amended by this act, apply**  
 20 **to maintenance reports prepared and maintenance assessments**  
 21 **made after June 30, 2007.**

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